

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO.: 1:11 CR 070
)	
Plaintiff,)	JUDGE DAVID D. DOWD, JR.
)	
vs.)	
)	
MATTHEW HOLLAND,)	<u>MOTION TO CONTINUE</u>
)	
Defendant.)	
)	

Now comes the Defendant, Matthew Holland, by and through his counsel, Jaime P. Serrat, and hereby requests this Honorable Court to grant this Motion for Continuance. This request is more thoroughly explained in the attached Memorandum in Support, which is incorporated herein by reference. This request is made in the interest of justice and not for the purposes of delay. The Assistant United States Attorney has indicated to defense counsel there is no objection by the government for the Court to grant this request.

Respectfully Submitted,

/s/ Jaime P. Serrat /s/
JAIME P. SERRAT, (#0031660)
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MEMORANDUM IN SUPPORT

A criminal indictment was filed against Defendant, Matthew Holland, on February 16, 2011. The defendant has been advised by undersigned counsel, and fully understands, that he is entitled to the commencement of a trial within seventy (70) days after his arraignment, or the filing of an indictment, whichever occurs later; or that the case against him shall be dismissed pursuant to the Speedy Trial Act.

In the instant case, having full knowledge of the particulars of the Speedy Trial Act as they relate to the dismissal of cases for failure to commence trial, the defendant respectfully submits that the interests of justice will be best served by granting the continuance requested herein. The defendant is requesting a continuance and therefore joins in this motion for continuance with counsel.

Pursuant to Section 3161(h) of the Speedy Trial Act, certain periods of delay shall be excluded in computing the time within which the trial of any offense must commence. Specifically, Title 18, Section 3161(h)(8)(A) provides for the exclusion of delay which is brought about by a continuance granted by a judge when such continuance will serve the interests of justice.

To that end, Title 18, Section 3161(h)(8)(A) specifically provides:

Any period of delay resulting from continuance granted by any judge on his own motion or at the request of the defendant or his counsel or at the request of the attorney for the government, if the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.

In determining whether a continuance is justified in the case *sub judice*, this Court must make the necessary findings that the interest of justice will be served by so

permitting such a continuance of the trial date. Title 18, Section 3161(h)(8)(B) provides that a judge shall consider certain factors in making such a determination concerning the interests of justice; and that the reasons for such determination shall be set forth on the record.

Title 18, Section 3161(h)(8)(B)(ii) provides that among the factors to be considered by the court are:

Whether the case is so unusual or so complex, due to the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section.

The Court's Trial Order sets a status conference for May 17, 2011, and trial for June 10, 2011. Defendant respectfully requests to continue this status conference, and subsequently the trial date for two reasons. First, Mr. Serrat, having only been appointed by the Court to this matter on April 22, 2011, will be unable to attend the May 17 status conference because he will be out of town to attend his daughter's graduation from law school. Moreover, Mr. Serrat will need more time to adequately prepare for this case. At this time, Mr. Serrat has yet to receive the file from the Defendant's previous counsel, who has been out of town. Having full and complete knowledge of the foregoing factors and the specific rights and requirements provided and set forth under Section 3161, Defendant hereby moves this Honorable Court for a continuance of all dates beyond the seventy (70) day limitation set forth in Title 18, Section 3161 *et seq.*

Counsel for the Defendant respectfully submits that the within Motion for Continuance of Trials is made in good faith.

Respectfully Submitted,

/s/ Jaime P. Serrat /s/
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CERTIFICATE OF SERVICE

I hereby certify that on May 6, 2011, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Jaime P. Serrat /s/
JAIME P. SERRAT, (#0031660)